

2022 Regular Session

HOUSE BILL NO. 758

BY REPRESENTATIVE SCHEXNAYDER

AGRICULTURAL COMMODITIES: Provides relative to industrial hemp

1 AN ACT

2 To amend and reenact R.S. 3:1462(13) through (18), 1465(D)(1), 1468(A), 1481, 1482(C)  
3 and (D)(introductory paragraph), 1483(A)(1), (B)(6) through (8), (C), (E), (G), and  
4 (L), and 1484(B)(4) and R.S. 40:1691.1, to enact R.S. 3:1462(19) and 1482(E), and  
5 to repeal R.S. 3:1485, relative to industrial hemp; to provide for the regulation of  
6 industrial hemp; to provide for definitions; to provide for testing; to provide for the  
7 regulation of consumable hemp products; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 3:1462(13) through (18), 1465(D)(1), 1468(A), 1481, 1482(C) and  
10 (D)(introductory paragraph), 1483(A)(1), (B)(6) through (8), (C), (E), (G), and (L), and  
11 1484(B)(4) are hereby amended and reenacted and R.S. 3:1462(19) and 1482(E) are hereby  
12 enacted to read as follows:

13 §1462. Definitions

14 As used in this Part, the following terms shall have the following meanings:

15 \* \* \*

16 (13) "Performance-based sampling" means an alternative sampling method  
17 utilized by the department to ensure, at confidence level of 95%, that no more than  
18 one percent of the industrial hemp plants in each lot subject to the alternative  
19 sampling method will test above a total delta-9 THC concentration of 0.3 percent on  
20 a dry weight basis.



1 §1468. Testing; inspections

2 A.(1) The department shall collect samples to test all industrial hemp crops,  
3 except those crops produced by licensees approved by the department for  
4 performance-based sampling, prior to harvest to ensure the THC concentration does  
5 not exceed a total delta-9 THC concentration of 0.3 percent on a dry weight basis.  
6 The grower shall harvest his approved industrial hemp plants not more than thirty  
7 days following the date of sample collection by the department, unless specifically  
8 authorized in writing by the department.

9 (2) The department shall ensure that one or more of the following factors  
10 exist when determining if a licensee is eligible for performance-based sampling:

11 (a) The variety or strain is recognized as AOSCA Certified Seed or has  
12 consistently demonstrated to result in compliant hemp plants pursuant to the  
13 sampling and testing process of the department.

14 (b) The hemp is produced for grain or fiber and no leaf or floral material will  
15 be harvested.

16 (c) The producer is conducting industrial hemp research.

17 (d) The producer has consistently produced compliant industrial hemp plants  
18 over an extended period of time.

19 (e) The producer is growing immature industrial hemp plants produced from  
20 industrial hemp seed of known compliant varieties and the plants will be harvested  
21 prior to flowering.

22 ~~(2)~~ (3) The department may enter into contracts, cooperative endeavor  
23 agreements, memoranda of understanding, or other agreements with any public  
24 postsecondary education institution for the testing of THC levels in industrial hemp  
25 crops or industrial hemp products deemed necessary by the commissioner.

26 \* \* \*

1                                   PART VI. CONSUMABLE HEMP PRODUCTS

2           §1481. Definitions

3                                   As used in this Part:

4                                   (1) "Adult-use consumable hemp product" means any consumable hemp  
5                                   product that contains more than 0.5 milligrams of total THC per package.

6                                   (2)(a) "Artificially-derived cannabinoid" means a chemical substance that  
7                                   is created by a chemical reaction using non-cannabis materials that results in a  
8                                   substance that replicates the molecular structure of a naturally occurring cannabis  
9                                   material.

10                                   (b) "Artificially-derived cannabinoid" shall not include:

11                                   (i) A naturally occurring chemical substance that is separated from the plant  
12                                   Cannabis sativa L. by a chemical or mechanical extraction process.

13                                   (ii) Cannabinoids that are produced by decarboxylation from a naturally  
14                                   occurring cannabinoid acid without the use of a chemical catalyst.

15                                   (iii) Derivatives and isomers of industrial hemp made from naturally  
16                                   occurring industrial hemp material.

17                                   ~~(1)~~ (3) "Commissioner" means the commissioner of the office of alcohol and  
18                                   tobacco control.

19                                   ~~(2)~~ (4) "Consumable hemp processor" means any individual, partnership,  
20                                   corporation, cooperative association, or other business entity that receives industrial  
21                                   hemp for the manufacturing or processing of a consumable hemp product.

22                                   ~~(3)~~ (5)(a) "Consumable hemp product" means any product derived from  
23                                   industrial hemp that contains any cannabinoid, including cannabidiol, and is intended  
24                                   for consumption or topical use.

25                                   (b) "Consumable hemp product" shall include commercial feed, pet products,  
26                                   and hemp floral material.

27                                   ~~(4)~~ (6) "Department" means the Louisiana Department of Health.

28                                   ~~(5)~~ (7) "Industrial hemp" or "hemp" means the plant Cannabis sativa L. and  
29                                   any part of that plant, including the seeds thereof and all derivatives, extracts,

1 cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not,  
2 with a total delta-9 THC concentration of not more than 0.3 percent on a dry weight  
3 basis.

4 (8) "Package" means a container or wrapping in which any consumer  
5 commodity is enclosed for the purpose of delivery or display of that commodity to  
6 retail purchasers and contains one or more servings.

7 ~~(6)~~ (9) "Remote retailer" means a person or entity who offers any  
8 consumable hemp product for sale at retail, or for any transaction of products in lieu  
9 of a sale, through a digital application, catalog, or the internet, that can be purchased  
10 and delivered directly to a consumer in Louisiana.

11 (10) "Retailer" means a person or entity who offers any consumable hemp  
12 product for sale at retail.

13 ~~(7)~~ (11) "Retail sale" or "sale at retail" means the sale or any transaction in  
14 lieu of a sale of products to the public for use or consumption but does not include  
15 the sale or any transaction in lieu of a sale of products for resale.

16 (12) "Serving" means the total amount of individual units or amount of  
17 liquid of a product recommended by the manufacturer to be consumed at a single  
18 time.

19 ~~(8)~~ (13) "State plan" means a plan required for approval by the United States  
20 Secretary of Agriculture to monitor and regulate the production of hemp.

21 ~~(9)~~ (14) "THC" means a combination of tetrahydrocannabinol and  
22 tetrahydrocannabinolic acid.

23 ~~(10)~~ (15) "Wholesaler" means a wholesale seller, distributor, or packer of  
24 consumable hemp products.

25 §1482. Consumable hemp products; prohibitions

26 \* \* \*

CODING: Words in struck-through type are deletions from existing law; words underscored are additions.

1           C. No retailer shall add any consumable hemp product to any food or  
2           beverage sold at retail to a consumer.

3           ~~C.~~ D. It shall be unlawful for any person to knowingly, willfully, or  
4 intentionally violate the provisions of this Section. Whoever knowingly, willfully,  
5 or intentionally violates the provisions of this Section shall be penalized as follows:

6   \*       \*       \*

7           ~~D.~~ E. The provisions of this Part shall be preempted by any federal statute,  
8 federal regulation, or guidance from a federal government agency that is less  
9 restrictive than the provisions of this Part.

10           §1483. Product approval; consumable hemp processors; Louisiana Department of  
11           Health

12           A.(1) Each consumable hemp processor shall obtain an annual consumable  
13 hemp processor ~~license~~ permit issued by the department. The department shall  
14 charge and collect an annual consumable hemp processor ~~license~~ permit fee. The fee  
15 shall be for each separate processing facility and shall be based on the annual sales  
16 of such facility according to the following schedule:

Annual Sales	Annual Fee
Under \$500,000	\$175.00
\$500,001 - \$1,000,000	\$475.00
\$1,000,001 - \$2,500,000	\$775.00
\$2,500,001 - \$5,000,000	\$1,075.00
Over \$5,000,000	\$1,375.00

23   \*       \*       \*

24           B. Any consumable hemp product that is manufactured, distributed,  
25 imported, or sold for use in Louisiana shall:

26           (6) ~~Not contain a total delta-9 THC concentration of more than 0.3 percent~~  
27 ~~on a dry weight basis.~~

28           (7) ~~Not contain a total THC concentration of more than one percent on a dry~~  
29 ~~weight basis.~~

1           ~~(8)~~ Not contain any artificially-derived cannabinoid ~~that is not naturally~~  
2           occurring.

3           (7) Not exceed the following THC limits for each product type:

<u>Product Type</u>	<u>Total THC</u>	<u>Total THC</u>	<u>Delta-9 THC</u>	<u>Total THC</u>
	<u>per Serving</u>	<u>per Package</u>	<u>Concentration</u>	<u>Concentration</u>
<u>Edibles</u>	<u>8mg</u>	<u>50mg</u>	<u>0.3%</u>	<u>1%</u>
<u>Topicals</u>	<u>None</u>	<u>None</u>	<u>0.3%</u>	<u>1%</u>
<u>Tinctures</u>	<u>None</u>	<u>100mg</u>	<u>0.3%</u>	<u>1%</u>
<u>Concentrates/ Extracts</u>	<u>8mg</u>	<u>50mg</u>	<u>0.3%</u>	<u>1%</u>
<u>Floral Material</u>	<u>None</u>	<u>None</u>	<u>0.3%</u>	<u>1%</u>

12           (8) Any consumable hemp product type not provided for in this Subsection  
13           shall not exceed the THC limits provided for edible products.

14           C.(1) All labels shall meet the following criteria in order to receive approval  
15           from the department:

- 16           ~~(1)(a)~~ (a) Contain no medical claims.
- 17           ~~(2)(b)~~ (b) Have a scannable bar code, QR code, or web address linked to a  
18           document or website that contains a certificate of analysis as provided in Subsection  
19           E of this Section.

20           (2) Any adult-use consumable hemp product shall be identified as such on  
21           the label.

22   \*       \*       \*

23           E. The application for registration shall include a certificate of analysis  
24           containing the following information for the final product:

- 25           (1) The batch identification number, date received, date of completion, and  
26           the method of analysis for each test conducted.
- 27           (2) Indication of serving size and package size, identified as milligrams per  
28           grams.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1                   (3) Test results identifying ~~the cannabinoid profile by percentage of weight,~~  
2                   ~~solvents, pesticides, microbials, and heavy metals.~~

3                   (a) Solvents, pesticides, microbials, and heavy metals.

4                   (b) The cannabinoid profile by percentage of weight.

5                   (c) Total THC per serving and total THC per package, identified as  
6                   milligrams per grams.

7   \*         \*         \*

8                   G.(1) The department shall:

9                   (a) Conduct an initial review of any product submitted pursuant to this  
10                   Section and notify the submitting party of any deficiencies existing which prevents  
11                   the approval of the product within fifteen business days of the date of submission.

12                   (b) ~~provide~~ Provide a list of registered products to the office of alcohol and  
13                   tobacco control, law enforcement, and other necessary entities as determined by the  
14                   department.

15                   (c) Provide a mechanism to allow the office of alcohol and tobacco control  
16                   to scan products to determine if the product is registered with the department.

17                   (2) If the department fails to implement the provisions of Subparagraph  
18                   (1)(c) of this Subsection by September 30, 2022, any products submitted to the  
19                   department for approval may be sold by a wholesaler or retailer permitted under R.S.  
20                   3:1484 while the product is pending approval.

21   \*         \*         \*

22                   L. The department shall promulgate rules and regulations in accordance with  
23                   the Administrative Procedure Act to implement the provisions of this Section. In  
24                   order to expedite implementation, the department shall utilize emergency  
25                   rulemaking. The rules shall specify standards for product labels, procedures for label  
26                   approval, limits for solvents, pesticides, microbials, and heavy metals, requirements  
27                   for accreditation for laboratories, any prohibited dosage vehicles as determined by  
28                   the department, and sanitary requirements specific to consumable hemp processors.



1 §1484. Permit to sell; office of alcohol and tobacco control

2 \* \* \*

3 B.

4 \* \* \*

5 (4)(a) No consumable hemp product shall be sold to any person under the  
6 age of eighteen years.

7 (b) No adult-use consumable hemp product shall be sold to any person under  
8 the age of twenty-one years.

9 \* \* \*

10 Section 2. R.S. 40:961.1 is hereby amended and reenacted to read as follows:

11 §961.1. Industrial hemp exemption

12 Notwithstanding the definitions provided for in R.S. 40:961(6) and ~~(26)~~(27),  
13 the provisions of the Uniform Controlled Dangerous Substances Law shall not apply  
14 to industrial hemp or ~~industrial hemp-derived CBD~~ consumable hemp products as  
15 provided for in Parts V and VI of Chapter 10-A of Title 3 of the Louisiana Revised  
16 Statutes of 1950.

17 Section 3. R.S. 3:1485 is hereby repealed in its entirety.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 758 Engrossed

2022 Regular Session

Schexnayder

**Abstract:** Provides for the regulation of industrial hemp and consumable hemp products.

Proposed law creates a definition for "performance-based sampling" and exempts certain licensees approved for performance-based sampling from Dept. of Agriculture THC testing requirements.

Proposed law provides the criteria for a licensee to be eligible for performance-based sampling.

Present law requires a criminal background check upon application for initial licensure or annual license renewal for growers, seed producers, processors, and handlers.

Proposed law changes the criminal background check requirement to upon application for initial licensure and every three years thereafter.

Present law provides for prohibitions on selling or processing certain consumable hemp products.

Proposed law adds a prohibition on retailers adding consumable hemp products to food or beverage sold at retail to consumers.

Present law prohibits consumable hemp products from containing any cannabinoid that is not naturally occurring.

Proposed law replaces "cannabinoid that is not naturally occurring" to "any artificially-derived cannabinoid" and provides a definition for "artificially-derived cannabinoid".

Proposed law defines the term "adult-use consumable hemp product" to mean any consumable hemp product that contains more than 0.5 milligrams of total THC per package.

Present law provides that consumable hemp products cannot contain a total delta-9 THC concentration of more than 0.3% nor a total THC concentration of more than 1% on a dry weight basis.

Proposed law retains this requirement for hemp floral material but provides the following table for limitations on THC in consumable hemp products:

Product Type	Total THC per Serving	Total THC per Package	Delta-9 THC Concentration	Total THC Concentration
Edibles	8mg	50mg	0.3%	1%
Topicals	None	None	0.3%	1%
Tinctures	None	100mg	0.3%	1%
Concentrates/ Extracts	8mg	50mg	0.3%	1%
Floral Material	None	None	0.3%	1%

Proposed law requires the limitations for THC in any consumable hemp product not provided in proposed law to be the same as what is provided for edible products.

Proposed law requires any adult-use consumable hemp product to be identified as such on the label.

Present law requires each application for product registration with the La. Dept. of Health (LDH) to include a certificate of analysis containing the following information:

- (1) The batch identification number, date received, date of completion, and the method of analysis for each test conducted.
- (2) Test results identifying the cannabinoid profile by percentage of weight, solvents, pesticides, microbials, and heavy metals.

Proposed law retains provisions of present law and requires the certificate of analysis to also indicate the serving size, total THC per serving, package size, and total THC per package and requires the units of measurement to be identified as mg/g.

Proposed law requires the LDH to review any consumable hemp product submitted for approval and notify the submitting party of any deficiencies existing which prevents the approval of the product within 15 business days of the date of submission.

Proposed law requires the LDH to provide a mechanism, by Sept. 30, 2022, to allow the office of alcohol and tobacco control to scan consumable hemp products to determine if the product is registered with the LDH and if not provided by the deadline any products

submitted to LDH for approval can be sold by a licensed wholesaler or retailer while the product is pending approval.

Present law requires the LDH to promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of present law.

Proposed law requires the LDH to promulgate rules and regulations to implement the provisions of present and proposed law on consumable hemp product approval by the LDH and regulation of processors utilizing emergency rulemaking authority.

Proposed law requires the LDH to include the limits for solvents, pesticides, microbials, and heavy metals allowable in consumable hemp products in their administrative rules.

Proposed law prohibits licensed retailers from selling adult-use consumable hemp products to any person under the age of 21.

Present law creates the Industrial Hemp Advisory Committee.

Proposed law repeals present law.

(Amends R.S. 3:1462(13)-(18), 1465(D)(1), 1468(A), 1481, 1482(C) and (D)(intro. para.), 1483(A)(1), (B)(6)-(8), (C), (E), (G), and (L), and 1484(B)(4) and R.S. 40:1691.1; Adds R.S. 3:1462(19) and 1482(E); Repeals R.S. 3:1485)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill:

1. Add the term "adult-use consumable hemp product" and defines it as any consumable hemp product that contains more than 0.5 milligrams of total THC per package.
2. Change the definition of "artificially-derived cannabinoid" to mean a chemical substance that is created by a chemical reaction using non-cannabis materials that results in a substance that replicates the molecular structure of a naturally occurring cannabis material.
3. Expand what is an artificially-derived cannabinoid to specify that it does not include derivatives and isomers of industrial hemp made naturally occurring industrial hemp material.
4. Change the acceptable THC levels in consumable hemp products and provide a table outlining the various consumable hemp products along with the acceptable levels of THC per serving, per package, and by concentration.
5. Add a provision that any consumable hemp product not specified in proposed law cannot exceed the THC limits provided for edible products.
6. Add a requirement to identify any adult-use consumable hemp product on the label.
7. Clarify that the certificate of analysis that must be provided is on the final product.
8. Expand the information to be included in a certificate of analysis for a consumable hemp product to include test results identifying the serving and

package size in milligrams per grams and the total THC per serving and per package in milligrams per grams.

9. Require the La. Dept. of Health (LDH) to review any consumable hemp product submitted for approval and notify the submitting party of any deficiencies existing which prevents the approval of the product within 15 business days of the date of submission.
10. Require the LDH to provide a mechanism, by Sept. 30, 2022, to allow the office of alcohol and tobacco control to scan consumable hemp products to determine if the product is registered with the LDH and if not provided by the deadline any products submitted to the LDH for approval can be sold by a licensed wholesaler or retailer while the product is pending approval.
11. Require the LDH to promulgate rules and regulations to implement the provisions of present and proposed law on consumable hemp product approval by the LDH and regulation of processors utilizing emergency rulemaking authority.
12. Require the LDH to include the limits for solvents, pesticides, microbials, and heavy metals allowable in consumable hemp products in their administrative rules.
13. Prohibit licensed retailers from selling adult-use consumable hemp products to any person under the age of 21.
14. Make technical changes.